



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable L. A. Woods
State Superintendent of Public Instruction
Austin, Texas

Dear Sir:

Attention of T. M. Trimble

Opinion No. O-2212

Re: Under the facts set forth, will the person elected to the place of county superintendent at the forthcoming general election serve for a four-year period or until 1942, which is the time the four-year term to which Mr. Newton was elected will have expired?

We have received your letter requesting the opinion of this department upon the above stated question. Your letter reads as follows:

"According to Opinion No. O-1664, which was rendered by your Assistant, Mr. Pat Coon, one appointed to the office of county superintendent by the Commissioners' Court fills the vacancy until the next general election. In the case considered in this opinion there would still remain two years of the elected term, as the county superintendent is elected for four years and the vacancy was filled by the Commissioners' Court, until the next general election.

"The term of the office of the now deceased County Superintendent of Milam County, Mr. Guy T. Newton, would have expired in 1942. Mrs. Newton was appointed by the Commissioners' Court to fill the vacancy created by the death of her husband.

"As the above mentioned opinion holds that the will and power of the people must prevail to name

an incumbent at the next general election, will the person elected to the place of county superintendent at the forthcoming general election serve for a four-year period, or will such a person serve until 1942, which is the time the four-year term, to which Mr. Guy T. Newton was elected, will have expired?"

Our opinion No. 0-1664, referred to in your letter, holds that one appointed to the office of county superintendent by the commissioners' court fills such vacancy only until the next general election. The only question with which we are concerned in this opinion is as stated above.

The Constitution of Texas, Article 16, Section 27, provides:

"In all elections to fill vacancies of office in this State, it shall be to fill the unexpired term only."

The Legislature, to give effect to Article 16, Section 27 of the Constitution, supra, enacted Article 20, Vernon's Civil Statutes, which reads as follows:

"All elections to fill vacancies in office shall be to fill the unexpired term only."

Also see Hicks vs. Curl, 38 Civ. App. 445, 86 SW 368.

In view of the foregoing authorities, you are respectfully advised that it is the opinion of this department that the person elected to county school superintendent at the forthcoming general election, under the circumstances set out in your letter, will be elected to further fill the vacancy in office created by the death of Mr. Newton, that is, until the general

Honorable L. A. Woods, Page 3

election in 1942, when Mr. Newton's term would have expired.

Trusting that this satisfactorily disposes of your inquiry, we remain

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *D. Burle Daviss*

D. Burle Daviss
Assistant

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